

Request for Review

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Request for Review of Decisions of the Universal)	CC Docket No. 02-06
Service Administrator for)	
River Springs Charter School		
Schools and Libraries Universal		
Service Support Mechanism		
Funding Year 2014		
Form 471 Application and FRNs		
471 965185 FRNs 2658084, 2657760 and		
2658045		

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River Springs Charter School ¹ (“River Springs CS”), pursuant to and in accordance with Sections 54.719 – 54.725 of the Federal Communications Commission’s (“FCC” or Commission”) rules, hereby requests for the FCC to overturn the denial issued in the Administrator’s Decision on Appeal – Funding Year 2014-2015 Letter (See *Exhibit 1 - USAC Appeal Denial*) ² dated May 21, 2018 issued by the Universal Service Administrative Company (“USAC”), as administrator of the National Education Rate Program (“E-rate”).

A Letter of Appeal was submitted to USAC on October 30, 2017, within 60 days of the Notification of Improperly Disbursed Funds Recovery Letters, (see *Exhibit 2 - Notification of Improperly Disbursed Funds Recovery Letter FRNs 2658084, 2658045 and Exhibit 3 - Notification of Improperly Disbursed Funds Recovery Letter for FRN 2657760*). The appeal petitioned for USAC to amend their decision to seek full recovery of funds committed to FRNs 2658084, 2657760 and 2658045 (See *Exhibit 5 - River Springs Charter School Appeal of Improperly Disbursed Funds*). The Administrator’s Decision on Appeal Letter denying our appeal was issued by USAC on May 21, 2018 (see *Exhibit 1 - USAC Appeal Denial*). USAC concluded that the ineligible service of “off campus use” as related to mobile broadband usage was provided to River Springs CS and the appeal was denied in full.

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River Springs CS respectfully requests the Commission to overturn USAC's decision to deny the appeal and rescind funding according to the cost allocations removing ineligible usage which was provided to USAC not only in the USAC Letter of Appeal, but also through a Cost Effectiveness Review (see *Exhibit 4 – FY 2013 and FY2014 E-rate Application Information Request*). Any other action would be contrary to the spirit and goals of the E-rate Program.

Background

River Springs Charter School³ is a charter school district comprised of seventeen student centers that serves 8,000 K-12 students spanning across eight counties in the Southern California area. Under this regulatory authority, River Springs Charter Schools annually submits E-rate application(s) for eligible services. An integral part of River Springs CS educational platform has been the implementation of a one to one student device initiative. While River Springs CS did have some LAN and WLAN connections in place, it was not sufficient to support the traffic throughout the school day therefore it was imperative to obtain supplemental bandwidth to accommodate the content being delivered on mobile devices in the classrooms. A positive Funding Commitment Decision Letter (FCDL) for FCC Form 471 965185 was issued on June 25, 2014. Subsequently, on September 29, 2014, a Cost Effectiveness Review was issued to address the cost effectiveness of individual data plans to support on-campus internet connectivity. The review also questioned if this service was duplicative to the existing wired and wireless LANs. Within the response to the Special Compliance review (page 3, #5 of *Exhibit 4 – FY 2013 and FY2014 E-rate Application Information Request*) was reference to the cost allocation removing the amount of “off-campus traffic usage”:

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- (b) If so, because E-rate only supports on campus use, not off-campus use, have you deducted a portion of the cost of the service based on off-campus use? If so, how did you allocate costs and what, if any, records of off-campus traffic usage did you base it on, and can you provide them? If not, why not? **We used the attached cost allocation formula. We are UNABLE to access 'off-campus traffic usage' reports as they have never been requested or required by us or by USAC. The cellular carriers simply do not have this kind of detail available as a reporting mechanism. Therefore, we use the attached cost-allocation formula that uses tangible criteria reaching a realistic result, per the guidelines from USAC**
- (c) If not, what safeguards do you have to prevent off-campus use? **We cost allocate the off-campus usage as required by the Eligible Services List and USAC guidance.**

River Springs Charter School followed the guidance specified in the FY 2014 Eligible Services List (Page 6, *Exhibit 6 - EligibleServicesList-2014*) by providing a cost allocation to remove costs for off-campus usage:

A wireless Internet access service designed for portable electronic devices is eligible if used for educational purposes. Off-campus use must be removed by cost allocation. Applications (including GPS) for wireless devices are not eligible for discount. Service/Data charges dedicated solely to the provision of these applications are not eligible and require cost allocation.

Mobile hotspot service designed for portable electronics is eligible if used for educational purposes. Off-campus use must be removed by cost-allocation. Hardware costs of the mobile hotspot embedded in or connected to the end-user device are not eligible.

and also adhered to guidance delivered in USAC News Briefs (Page 3 “Partially eligible products and services”, *Exhibit 7 - 5-1-2015 News Brief Schools & Libraries*). There was no additional outreach from USAC after the response to the cost Effectiveness Review was submitted on October 23, 2014.

Nearly three years after River Springs CS underwent the Cost Effectiveness Review the Notification of Improperly Disbursed Funds letters, dated August 29, 2017, were issued. (*Exhibit 2 - Notification of Improperly Disbursed Funds Recovery Letter FRNs 2658084, 2658045 and Exhibit 3 - Notification of Improperly Disbursed Funds Recovery Letter for FRN 2657760*).

The Funding Commitment Adjustment Explanations were as follows for each FRNs 2658084, 2657760 and 2658045:

“During a review, it was determined that the funding commitment for this request must be rescinded in full. Funding was provided for the following ineligible items: ineligible service – off campus use.

The pre-discount cost associated with these items is \$-----_. At the applicant’s 72% percent discount rate, this resulted in an improper commitment of \$-----_. FCC rules provide that funding may be approved only for eligible products and/or services. The USAC web site

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contains a list of eligible products and/or services. See the web site, <http://www.usac.org/sl/applicants/beforeyoubegin/eligible-services-list.aspx> for the Eligible Services List. Therefore, USAC has determined that the applicant is responsible in full for the rule violation. Accordingly, the commitment has been rescinded in full”

The Funding Commitment Adjustment Explanations came as a surprise to River Springs CS as they had clearly responded to the Cost Effectiveness Review with a cost allocation formula that used tangible criteria reaching a realistic result per USAC’s guidance and FY 2014 Eligible Services List. There was no follow up outreach from USAC regarding the Cost Effectiveness Review which begs the question why the thirty-four month lapse of time between the date of the Cost Effectiveness Review and the RIDF? Clearly, an appeal would need to be submitted to USAC to reiterate the cost allocation for the off-campus usage.

On October 30, 2017 a Letter of Appeal was submitted to USAC requesting that USAC reverse the decision to seek full recovery of committed funding. The appeal specifically described the services that were actually provided under each of the three funding requests. To summarize:

- FRN 2657760 – Internet Access for mobile broadband access, however it is used ONLY at eligible locations which was documented and communicated to the Service Provider. Services under FRN 2657760 are 100% eligible and no cost allocation requiring the return of funding should be warranted (*Exhibit 9 - On Premise Usage Confirmation*)
- FRN 2658084: FRN 2658084 does in fact carry some off campus usage that was thought to have been communicated during an October 2014 Cost Effectiveness Review (*Exhibit 8 - River Springs Charter Wireless Broadband Cost Allocation rationale*)
- FRN 2658045: FRN 2658045 is a Telecommunications funding request and consists solely of monthly recurring services associated with smartphone usage. Please refer to the explanation above regarding FRN 2658084 as the same rationale applies (*Exhibit 8- River Springs Charter Wireless Broadband Cost Allocation rationale*)

On May 21, 2018 USAC issued a decision (*Exhibit 1 - USAC Appeal Denial FY 2014*):

<u>Funding Request Number(s):</u>	2657760, 2658045, 2658084
<u>Decision on Appeal:</u>	Denied
<u>Explanation:</u>	

- The commitment for the funding requests was rescinded in full. During review, it was determined that the funding was provided for off campus use which is an ineligible service. FCC rules provide that funding may be approved only for eligible products and/or services. The USAC web site contains a list of eligible products and/or services. In your appeal, you did not show that USAC’s determination was incorrect. Consequently, your appeal is denied.

To unequivocally rescind all funding requests in full is not only completely inaccurate but unreasonable. River Springs Charter School followed the FCC’s rules that were in place during Funding

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Year 2014. The Cost Effectiveness Review was issued two months after the release of the FCC's E-rate Modernization Order which instituted significant changes to the eligibility of data plans and air cards for mobile devices and their cost effectiveness. The changes would go into effect beginning in Funding Year 2015-2016, not in Funding Year 2014. River Springs Charter School submitted detailed explanations and calculations to support their cost allocations during the Cost Effectiveness Review and the Letter of Appeal to USAC which appear to have fallen on deaf ears since there was no follow up received from USAC in regards to either.

Conclusion

River Springs Charter School respectfully requests review of the FCC's program rules pertaining to USAC's determination that Funding Requests 2658084, 2657760 and 2658045 should be denied in full. River Springs Charter School provided cost allocations to USAC during their Cost Effectiveness Review and Letter of Appeal with no explanation or follow up as to why. River Springs CS requests that Funding Request Numbers 2658084, 2657760 and 2658045 are restored to Committed status per the documentation submitted with the Letter of Appeal to USAC. River Springs Charter School should not be penalized unfairly when they have clearly made every effort to be transparent and compliant with FCC rules pertaining to off campus usage.

Respectfully Submitted,

/S/

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¹ River Springs Charter School's Billed Entity Number (BEN) is 16038751

² This Request for Review is timely filed in accordance with Sections 54.720 and 1.4 of the Commission's Rules within 60 days of the denial of the USAC appeal – Dated May 21, 2018

³ Charter Schools' information available at <http://springscharterschools.org/>